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09/229,589	01/13/1999	LEONID A YEGOSHIN	P3356	5733

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/229,589
Filing Date: January 13, 1999
Appellant(s): YEGOSHIN, LEONID A

Donald R. Boys
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/10/2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-2, 4-8, 10-14, and 16-17 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,940,479	GUY et al.	08-1999
6,304,567	ROSENBERG	10-2001

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4-7, 10-14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guy et al. (US 5,940,479), hereinafter Guy, in view of Rosenberg (US 6,304,567).

Regarding claims 1, 4-5, 7, 10-11, 13-14, and 17, Guy discloses a system and method for transmitting packet across a wide area network (WAN) from a local phone coupled to a computer e.g., PC-phone, the system comprises of:

-at least two PC-phones 103/105 and 143/145 (internet capable call appliances) located in different location;

-a first router 114 coupled to the PC-phone 103/105;

-a second router 132 coupled to the PC-phone 143/145; and

-a WAN network (internet or ATM or frame relay) for connecting between the two routers.

The calls setup between the call appliance 103/105 and the router 114 (end node leg), and the call setup between the router 114 and 132 through the Internet 104 (intermediate legs), the call setup between the router 132 and the called appliance 143/145 (end node leg) are separate and distinct (see figures 1, 5, and col. 5 lines 54 to col. 6 line 35).

Guy fails to explicitly disclose that the end destination is Internet-capable call appliance; and maintaining call legs once established for future use to be rejoined to other established call legs.

Guy discloses as an example the end destination is a phone 142 where a file server 122 convert the compressed digital signals in the packet into analog signals and

transmit the signals to the phone 142 via the PSTN 140 (see col. 6 lines 9-35). It should be note that the converting of digital signals into analog signals is necessary because the end destination is not Internet-capable call appliance. However in figure 1, Guy discloses that the second router 132 is connected to the PC-phone 143/145 via a second LAN 134 (see figure 1 and col. 5 lines 60-65). In col. 6 lines 59-62, Guy clearly discloses PC-phone technology enables communication between similar PC-phones over a router-based network; and in previous systems, PC-phones have only been able to communicate with other compatible PC-phones (see also col. 7 line 4 to line 7).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to originate a call from the PC-phone 103/105 and designate the call to the PC phone 145/143 in the system taught by Guy for minimizing the call delay caused by converting compressed digital signals into analog signals.

Rosenberg, on the other hand, teaches maintaining call legs once established for future use to be rejoined to other established call legs (se col. 3 lines 12-38).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to maintain the connection between the routers after a particular call is completed as taught by Rosenberg and implementing the teaching of in the system taught by Guy for providing efficient uses of network resources (i.e. reduce connection time, maximize the bandwidth by multiplexing calls) for voice connections between two locations (i.e. New York and Los Angles) having high volume long distance calls over a data network i.e. Internet.

Regarding claims 6 and 12, Guy discloses a LAN network 16, connecting end appliances at one or more routers, and wherein end-node leg are established via LAN to appliances on the LAN 116 (see figure 1).

Claims 2, 8, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Guy-Rosenberg as applied to claims 1, 7, and 16 above, and further in view of Andrews et al. (US 5,848,143), hereinafter Andrews.

Claim 2, 8, and 16, the combination of Guy-Rosenberg fail to disclose the call appliances include interactive voice response (IVR) units.

Andrews, on the other hand, teaches IVR units included in agent system of a communication system that provides telephony communication between agents and a plurality of callers (see figures 8-10).

Therefore it would have been obvious to one having ordinary skill in the art at the time of invention was made to include the IVRs of Andrews in the system taught by the combination of Guy-Rosenberg for improving requested information to the caller 24 hours a day without human assistant –thus enhancing customer service while reducing costs.

(11) Response to Argument

In page 10 last paragraph, the applicant argued the following:

> Appellant further pointed out that in every single embodiment of Guy, calls originating from PC phone 103/105 terminate at PSTN-connected telephone 142, which is clearly and unarguably not an Internet capable appliance. In contrast to the Examiner's contention, calls are not placed from

> PC phone 103/105 to PC phone 143/145. Guy clearly teaches that set up between the original call appliance and the destination call appliance requires, in each connection. set up from source to final destination each time a connection is needed, which teaches away from the claimed invention.

In response, Guy discloses, in col. 6 lines 9-35, as **an example** the call between the PC-phone 105/103 (an internet capable appliance) and an analog phone 142 (non-internet capable appliance). Figure 1 clearly show that the second router 132 is connected to the PC-phone 143/145 (another internet capable appliance) via a second LAN 134 (see figure 1 and col. 5 lines 60-65). The examiner made the 35 USC 103 rejection for Guy fails to **explicitly disclose** the call destination is PC-phone 143/145. In col. 6 lines 59-62, Guy clearly discloses PC-phone technology enables communication between similar PC-phones over a router-based network; and in previous systems, PC-phones have only been able to communicate with other compatible PC-phones (see also col. 7 line 4 to line 7).

In page 11 second paragraph, the applicant argued the following:

> Appellant further argued and maintained that the reference of Guy still clearly does not teach communication between two IP call appliances as is specifically taught and claimed in the instant application. The claims of the instant application do not recite communication from a local phone to a PC phone; rather, the claims recite communication between two Internet-capable appliances. Any communications in Guy always takes place between a phone connected to a computer 103/105 and a PSTN or PBX connected telephone 142/129.

In response, Guy discloses, in col. 6 lines 9-35, as **an example** the call between the PC-phone 105/103 (an internet capable appliance) and an analog phone 142 (non-internet capable appliance). Figure 1 clearly show that the second router 132 is connected to the PC-phone 143/145 (another internet capable appliance) via a

second LAN 134 (see figure 1 and col. 5 lines 60-65). The examiner made the 35 USC 103 rejection for the Guy fails to **explicitly disclose** the call destination is PC-phone 143/145. In col. 6 lines 59-62, Guy clearly discloses PC-phone technology enables communication between similar PC-phones over a router-based network; and in previous systems, PC-phones have only been able to communicate with other compatible PC-phones (see also col. 7 line 4 to line 7).

In page 12 second paragraph, the applicant argued the following:

> Appellant wishes to point out and make very clear that there is absolutely no teaching in the above portion of Guy of calls being placed between two Internet-capable appliances. Communication in Guy always, in every instance, takes place between a phone connected to a computer 103/105 and a PSTN or PBX connected phone 142 or 129.

In response, Guy discloses, in col. 6 lines 59-62, PC-phone technology enables communication between similar PC-phones over a router-based network; and in previous systems, PC-phones have only been able to communicate with other compatible PC-phones (see also col. 7 line 4 to line 7).

In page 13 second paragraph, the applicant argued the following:

> In response appellant traversed the Examiner's reasoning of obviousness, pointing out that in order to support the conclusion that the claimed invention is directed to obvious subject matter, either the reference must expressly or implicitly suggested the claimed invention or the Examiner must present a convincing line of reasoning as to why the skilled artisan would have found the claimed invention to have been obvious in light of the teachings of the reference. Both the suggestion to make the claimed combination and the reasonable expectation of success must be founded in the prior art and not in the disclosure of the application. Appellant further argued that the originating call of Guy dials a PSTN telephone number and does not place an Internet call to another communicator on the Internet. The calls placed from phone 105 in Guy are converted at both ends (see figure 5), therefore, the Examiner's reasoning that bypassing conversion at the receiving end, unarguably fails, because conversion must also take place at the call originating end. Only in the specification of the instant application is there any teaching of true IP calls from origination to destination.

In response to the above argument, figure 1 clear show that the second router 132 is connected to the PC-phone 143/145 via a second LAN 134 (see figure 1 and col. 5 lines 60-65). In col. 6 lines 9-35, Guy discloses as **an example** the end destination is a phone 142 where a file server 122 convert the compressed digital signals in the packet into analog signals and transmit the signals to the phone 142 via the PSTN 140. This step is necessary since the destination phone is an analog phone. The destination could have been PC-phone 143/145, where conversion of digital to analog signals will not be necessary.

In page 14 second paragraph, the applicant argued the following:

> Appellant emphasizes to the Board, however, the specific claimed limitations of Internet-capable call appliances', and' setting up separate and distinct and node legs between call appliances and routers'. because the reference of Rosenthal clearly fails to explicitly teach or suggest these limitations, which are necessary for practicing the claimed invention. Rosenthal teaches, with reference to figure 2, and specifically col. 4, lines 7-52, that station sets S 1 - S4 are not Internet-capable call appliances; rather, the station sets are equivalent to those of the prior art example of figure 1. The station sets are conventional telephone sets, not Internet-capable call appliances, and are connected to telephony processors 214 of the Internet gateways 200 and 201 via local central offices. It is clearly taught that the call legs are established and maintained between the Internet gateways, not, in addition, between Internet capable call appliances and routers (switches), as claimed in the instant application. Since Rosenthal clearly does not teach Internet-capable call appliances, appellant strongly argues that Rosenthal, therefore, cannot set up and maintain separate and distinct end node legs between Internet-capable call appliances and routers.

In response, the examiner cited Rosenberg reference to shows maintaining connection between two long distance Internet Telephone Gateways (ITGs) once established for future uses (see col. 3 lines 18-28). It should be note that the connection two long distance ITGs comprise of a plurality of legs i.e. routers or switches

and links between them in an internet connection (intermediate legs). Guy discloses other limitations (see above responses; col. 6 lines 59-62; and col. 7 line 4 to line 7).

In page 15 second paragraph, the applicant argued the following:

> Appellant asserts that, firstly, the combined art of Guy/Rosenberg clearly did not produce the claimed invention because the specific limitation of Internet-capable call appliances is not explicitly disclosed or suggested in either reference, and secondly, there is no specific teaching or suggestion in either reference of setting up and maintaining separate and distinct end node legs between Internet-capable call appliances and routers, and there is no motive or incentive in either reference to combine the teachings.

In response, Guy discloses, in col. 6 lines 59-62, PC-phone technology enables communication between similar PC-phones over a router-based network; and in previous systems, PC-phones have only been able to communicate with other compatible PC-phones (see also col. 7 line 4 to line 7). Rosenberg reference shows maintaining connection between two long distance Internet Telephone Gateways (ITGs) once established for future uses (see col. 3 lines 18-28). Thus, the combination of Guy/Rosenberg discloses the claimed limitations. The motivation to combine the references is disclosed in Rosenberg (see col. 3 lines 18-29).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Bob A. Phunkulh
August 19, 2004

Conferees

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